

In the Matter of KNIFE RIVER COAL MINING COMPANY, EMPLOYER and
ALBIN BECKER, PETITIONER and LOCAL #1101, PROGRESSIVE MINE
WORKERS OF AMERICA, UNION

Case No. 18-RD-37.—Decided September 11, 1950

DECISION AND ORDER

Upon a petition for decertification duly filed, a hearing was held in this case on May 9, 1950, at Beulah, North Dakota, before Jerome K. Wilkins, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner, an employee of the Employer, asserts that the Union is no longer the representative, as defined in Section 9 (a) of the Act, of the employees designated in the petition.

The Union is a labor organization recognized by the Employer as the exclusive bargaining representative of employees of the Employer.

3. The Union contends that this proceeding should be dismissed upon the ground that the Petitioner, Albin Becker, is in fact acting as a "front" for the United Mine Workers of America, hereinafter referred to as the UMW, a labor organization not in compliance with the filing requirements of the Act. We find merit in this contention. The credible testimony in the record discloses that about the year 1947, Becker, who was then a member of the Union, joined the UMW and is presently a member of that organization; that in January 1950 a meeting of the UMW was held at which one Miller, a UMW organizer, made the principal speech indicating that it would be a good idea to decertify the Union; that Miller produced a blank form petition at this meeting which he had Becker sign; that Becker signed the blank petition on the wrong line and Miller sometime thereafter brought it to Becker's home where the latter again signed it; that Becker did not know what was thereafter typed or written in the blank spaces of the petition; that Becker intended by the petition to have the UMW represent the workers and to have them participate in the UMW wel-

fare fund; that on the day of hearing Becker was informed by one Masini, another UMW organizer, that an attorney was coming to represent him; that Becker himself did not decide he needed counsel, did not ask the lawyer to represent him, did not know him or how he was going to be paid, and did not intend to pay for his services; and, that on at least two occasions Becker was absent from the hearing solely because UMW Organizer Masini told him not to appear as the hearing had been postponed when in fact it had not.

Section 9 (f) and (h) of the Act provides that the Board shall not conduct an investigation of any question concerning representation raised by a labor organization unless that labor organization has met the statutory registration and filing requirements. In our opinion it is clear that Albin Becker is acting on behalf of the UMW. Thus, the question concerning representation has been raised, *in fact* although not in form, by a noncomplying labor organization. Clearly, if the noncomplying UMW had filed this decertification in its own name, we would have dismissed the petition, because Section 9 (f) and (h) would prevent the Board from proceeding with the investigation. We can perceive of no valid reason for coming to a different result because this labor organization, which is the real party in interest, utilized the indirect method of having an individual file the petition in its behalf.¹ Accordingly, we shall dismiss the petition herein.²

ORDER

IT IS HEREBY ORDERED that the petition herein be, and it hereby is dismissed.

¹ Similarly, in certification proceedings the Board has uniformly dismissed petitions or refused to permit intervention where the individuals or labor organizations involved were "fronting" for noncomplying unions. See for example *R. J. Reynolds Tobacco Company*, 83 NLRB 348, and *Campbell Soup Company*, 76 NLRB 950.

² Insofar as *Radix Wire Company*, 86 NLRB 105 and *Auburn Rubber Corporation*, 85 NLRB 545 and cases cited therein are inconsistent herewith, they are overruled.